

Dear Senators GUTHRIE, Den Hartog, Jordan, and  
Representatives BOYLE, Troy, Erpelding:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Idaho Soil and Water Conservation Commission:

IDAPA 60.00.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket  
No. 60-0000-1900) - Idaho Soil and Water Conservation Commission.

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 07/19/2019. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/16/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

**FROM:** Deputy Division Manager - Katharine Gerrity

**DATE:** July 1, 2019

**SUBJECT:** Idaho Soil and Water Conservation Commission

IDAPA 60.00.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket No. 60-0000-1900) - Idaho Soil and Water Conservation Commission

The Idaho Soil and Water Conservation Commission submits notice of temporary and proposed rules that reauthorize and re-publish the following previously approved chapters at IDAPA 60.05.04 - Rules For Allocation of Funds to Conservation Districts.

These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation. **Changes from the previously approved rules include the following: The rulemaking adds a definition and requirements for Five Year Plans, previously set forth in IDAPA 60.05.02, and updates the address of the commission as set forth in Section 006 of the rules.** No other changes from existing rules have been noted. Rulemaking appears to be authorized pursuant to Section 22-2718, Idaho Code.

cc: Idaho Soil and Water Conservation Commission  
Corrine Dalzell

**\*\*\* PLEASE NOTE \*\*\***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

# IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

DOCKET NO. 60-0000-1900

## NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED RULEMAKING

**EFFECTIVE DATE:** The effective date of the temporary rule listed in the descriptive summary of this notice is June 30, 2019.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-2718 (1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 60, rules of the Idaho State Soil and Water Conservation Commission:

### **IDAPA 60**

- 60.05.04, *Rules For Allocation of Funds to Conservation Districts* – Reestablishes the existing rule, adds a definition/requirements for Five Year Plans that was previously set in IDAPA 60.05.02, and updates the address of the Commission set forth in Section 006 of these rules.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. IDAPA 60.05.04 provides the process and standards for providing funding to conservation districts. This Rule is necessary for compliance with requirements set forth by the Legislature in Section 22-2727, Idaho Code, to distribute funds to conservation districts as was appropriated in the 2019 session.

**FEE SUMMARY:** This rulemaking does not impose a fee or charge.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Corrine Dalzell, (208) 332-1792.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 9th day of May, 2019.

Corrine Dalzell  
Rules Review Officer  
Idaho Soil & Water Conservation Commission  
P.O. Box 83720  
Boise, ID 83720-0083  
Phone: (208) 332-1792  
Fax: (208) 332-1799

**IDAPA 60  
TITLE 05  
CHAPTER 04**

**60.05.04 – RULES FOR ALLOCATION OF FUNDS TO CONSERVATION DISTRICTS**

**000. LEGAL AUTHORITY.**

This chapter is adopted by the Idaho State Soil and Water Conservation Commission under the legal authority of Sections 22-2718 and 22-2727, Idaho Code. (3-29-12)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are titled IDAPA 60.05.04, “Rules for Allocation of Funds to Conservation Districts.” (3-29-12)

**02. Scope.** These rules establish the procedures to be followed by the Commission and the conservation districts in the implementation of Section 22-2727, Idaho Code, providing for the allocation of state funds appropriated for distribution to conservation districts. (3-29-12)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (3-29-12)

**003. ADMINISTRATIVE APPEAL.**

There is no provision for administrative appeals before the Commission under this chapter. Persons may be entitled to appeal final agency actions authorized under this chapter pursuant to Section 67-5270, Idaho Code. (3-29-12)

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. (3-29-12)

**005. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the department. (3-29-12)

**006. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Soil and Water Conservation Commission, 322 E. Front Street, Suite 560, Boise, Idaho, 83702. (3-29-12)

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-29-12)

**03. Telephone Number.** The telephone number of the Idaho State Soil and Water Conservation Commission at the central office is (208) 332-1790. (3-29-12)

**04. Fax Number.** The fax number of the Idaho State Soil and Water Conservation Commission at the central office is (208) 332-1799. (3-29-12)

**05. Website.** The Commission’s website address is <http://www.swc.idaho.gov/>. (3-29-12)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

For the rules contained in this chapter, the following definitions apply: (3-29-12)

**01. Base Funding.** Funds appropriated to the Commission to be allocated equally to the various soil conservation districts in a sum not to exceed eight thousand five hundred dollars (\$8,500) per district per year. (3-29-12)

**02. Board of Supervisors.** Governing body of a district as provided in Section 22-2717(25), Idaho

- Code. (3-29-12)
- 03. Certify.** To confirm formally as true, accurate, or genuine. (3-29-12)
- 04. Commission.** The Idaho State Soil and Water Conservation Commission as defined in Section 22-2718, Idaho Code. (3-29-12)
- 05. Conservation District or District.** A soil (and water) conservation district as defined in Section 22-2717, Idaho Code. (3-29-12)
- 06. Financial and Match Report.** Documentation certified by the Board of Supervisors that: (3-29-12)
- a.** Itemizes local funds and services received by a district during the previous fiscal year; and (3-29-12)
- b.** Describes how state base and match funds were utilized during the previous fiscal year. (3-29-12)
- 07. Fiscal Year.** As set forth in Section 67-2201, Idaho Code, the fiscal year will begin on July 1 and close on June 30 of the following year. (3-29-12)
- 08. Five (5) Year Plan.** The plan reviewed and updated annually by each district pursuant to the Final Agreement to implement an Antidegradation Policy for the State of Idaho (August 18, 1988). The plan will contain the following components, as further specified by Commission policy: physical characteristics, economic condition and outlook, assessment of the District's resource conditions and conservation needs, prioritized objectives, water quality component, and an annual work plan. (6-30-19)T
- 09. Funding Criteria.** Criteria considered by the Commission to determine the amount of base and match funding to be allocated to the conservation districts. Criteria may include district budgets, district budget requests, district programs and work plans, and district work load analysis. The following documents may be required on an annual basis in order to consistently apply the criteria to all districts: (3-29-12)
- a.** Five (5) year plans; (3-29-12)
- b.** Financial and match reports; and (3-29-12)
- c.** Performance reports. (3-29-12)
- 10. Local Funds.** Monies received in the previous fiscal year from local units of government and organizations for the general purposes of a conservation district. Funds received for special projects, used as required match for specific grants or projects, or on a fee-for-service basis will not be used to calculate match funding. (3-29-12)
- 11. Local Services.** Non-cash contributions received in the previous fiscal year from local units of government and organizations for the general purposes of a conservation district. Services received for special projects, used as required match for specific grants or projects, or on a fee-for-service basis will not be used to calculate match funding. (3-29-12)
- 12. Local Units of Government.** Any general or special purpose political subdivision of the state which has the power to levy taxes and/or appropriate and spend funds. (3-29-12)
- 13. Match Funding.** Funds appropriated to the Commission for distribution to conservation districts in excess of base funding not to exceed twice the amount of local funds and services received by each district in the previous fiscal year. (3-29-12)
- 14. Maximum Allocation.** The total of base funding and match funding allocated to any one (1) conservation district shall not exceed fifty eight thousand and five hundred dollars (\$58,500) in a fiscal year.

(3-29-12)

**15. Organizations.** A group of two (2) or more persons structured and managed to pursue a collective goal on a continuing basis. (3-29-12)

**16. Performance Report.** Documentation summarizing conservation activities, projects, and programs implemented by a conservation district during the previous fiscal year. (3-29-12)

**011. ALLOCATION OF FUNDS TO DISTRICTS.**

**01. Base Funding.** The Commission shall determine the dollar amount to allocate equally to conservation districts on an annual basis. As soon as practicable after the start of the fiscal year, the Commission shall immediately distribute base funding to the districts that submitted the required documents during the previous fiscal year. (3-29-12)

**02. Match Funding.** Following determination of base funding, the Commission shall review and approve the additional amount of state appropriations available for proportional allocation to each district in match funding. The amount of match funding allocated will be based upon local funds and services received in the previous fiscal year by each conservation district for the general purposes of the district. Funds received for special projects, used as required match for specific grants or projects, or on a fee-for-service basis will not be used to calculate match funding. Once the required documents for match funding are submitted and determined to be complete, the Commission shall distribute match funding to each district as soon as practicable. (3-29-12)

**03. Required Documents.** The Commission may require submission of certain documents prior to allocation of base and match funding to districts. These documents may include five (5) year plans, financial and match reports, and performance reports. (3-29-12)

**a.** The Board of Supervisors shall certify in writing that the district has examined all documentation submitted and that the statements and representations in the documents are true and accurate. (3-29-12)

**b.** The district shall submit any required documents by a date established by the Commission. (3-29-12)

**04. State Budget Requests.** The Commission shall conduct a public hearing to consider the needs of the conservation districts on or before June 15th of each year, giving twenty (20) days' written notice of the hearing to each conservation district and to all other persons requesting notice of the hearing. The Commission shall hear and consider testimony at the hearing and all information submitted by the districts prior to submission of the annual budget request to the legislature and governor based upon the criteria of Subsection 010.09 of this rule. (3-29-12)

**012. -- 999. (RESERVED)**